

REMARKS

I. Status of Claims

In the Office Action mailed May 7, 2007, the Examiner objected to claims 21 and 22; rejected claims 1, 14, and 27 under 35 U.S.C. § 112, second paragraph; and rejected claims 1-39 under 35 U.S.C. § 103(a) as being unpatentable over *Jarosz* (U.S. Patent No. 7,000,121) in view of *Kauhanen et al.* (U.S. Patent Application Publication No. 2004/0064563).

By this amendment, Applicant amends claim 21. As such, with entry of this Amendment, claims 1-39 remain pending in this application.

II. Objection to Claims 21 and 22

In response to the Examiner's objection, Applicant has amended claim 21 to depend from claim 19. Accordingly, Applicant respectfully requests the Examiner to withdraw the objection to claims 21 and 22.

III. Rejection of Claims 1, 14, and 27 under 35 U.S.C. § 112, second paragraph

In the Office Action, the Examiner rejected claims 1, 14, and 27 under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner asserts that "the phrase 'configured to' renders the claim indefinite because it is unclear whether the limitation(s) following the phrase 'configured to' is actually performed." (*Office Action*, p. 2.) Applicant respectfully disagrees with the Examiner's assertion. Claims 1, 14, and 27, recite "reconfiguring a first data, the first data initially configured to be transmitted" Because the data was "initially configured" and is reconfigured, it

cannot be unclear whether the recitations after “configured” are performed. Applicant therefore requests withdrawal of this rejection.

IV. Rejection of Claims 1-39 under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 1-39 under 35 U.S.C. § 103(a) because the combination of references cited by the Examiner fails to establish a *prima facie* case of obviousness. Those references, even if combined as suggested by the Examiner, do not teach or suggest the claimed subject matter.

Jarosz and Kauhanen et al. fail to teach or suggest a method for “transmitting over a network an indication from a first node to a second node that a third node has failed,” as recited in independent claim 1. For example, *Jarosz* discloses a method of detecting the failure of a gateway by transmitting “a failure detection signal, comprising so-called ‘heartbeat’ packets to the gateway” (*Jarosz*, 3:52-58.) The “failure detection signal” of *Jarosz* is not an “indication from a first node to a second that a third node has failed.” On the contrary, the “failure detection signal” merely detects failure of a gateway. (*Id.*) *Kauhanen et al.* also fails to teach or suggest the above claim recitation and the Examiner does not rely on *Kauhanen et al.* for such a teaching.

Additionally, *Jarosz and Kauhanen et al.* fail to teach or suggest a method for “reconfiguring a first data, the first data initially configured to be transmitted over the network between the second node and the third node, to be transmitted over the network between a fourth node and the first node after the indication has been received by the second node,” as recited in independent claim 1. For the alleged disclosure of this recitation, the Examiner relies on the teachings of *Kauhanen et al.* However, *Kauhanen et al.* fails to teach or suggest this recitation. Instead, *Kauhanen et al.*

teaches a method of allowing a mobile station, after being advised of a change in transmission bandwidth, an opportunity to accept or deny the change. (See, e.g., *Kauhanen et al.* ¶¶ 0014, 0015, and 0052-0057.) In one example, if the mobile station rejects the change, a negotiation is begun to “determine whether the transfer data . . . can be adapted to [a] proposed new rate.” (*Id.* at ¶ 0057.) *Kauhanen et al.* does not disclose “reconfiguring a first data . . . to be transmitted over the network between a fourth node and the first node after the indication [that a third node has failed] has been received by the second node,” as recited in independent claim 1.

Independent claims 14 and 27, while of different scope than claim 1, distinguish over *Jarosz* and *Kauhanen et al.* for at least the same reasons as claim 1.

For at least the above reasons, the combination of *Jarosz* and *Kauhanen et al.* fails to establish a *prima facie* case of obviousness with respect to independent claims 1, 14, and 27. Applicant thereby respectfully requests withdrawal of the rejection of independent claims 1, 14, and 27 and the timely allowance of these claims.

Dependent claims 2-13, 15-26, and 38-39 are also allowable at least for the reasons set forth above in connection with independent claims 1, 14, and 27 and because they recite features not taught or suggested by the cited references. Accordingly, Applicant also respectfully requests withdrawal of the rejection of dependent claims 2-13, 15-26, and 38-39 under 35 U.S.C. § 103(a) and the timely allowance of these claims.

CONCLUSION

The preceding arguments are based on the arguments presented in the Office Action, and therefore do not address patentable aspects of the invention that were not

addressed by the Examiner in the Office Action. The pending claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability. Furthermore, the Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: August 7, 2007

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